

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
Wheeling**

MYRON SYLVESTER JAMES,

Plaintiff,

v.

**Civil Action No. 5:23-CV-262
Judge Bailey**

**DOCTOR WOODS, DOCTOR BRISHMAN,
LT. SIOLE, and OFFICER G. KITCHEN,**

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

The above referenced case is before this Court upon the magistrate judge's recommendation that plaintiff's claims against defendants Woods, Brishman, and Siole be dismissed without prejudice because plaintiff has failed to provide information from which service of the Complaint can be achieved against defendants Woods, Brishman, and Siole.

This Court is charged with conducting a *de novo* review of any portion of the magistrate judge's report to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that report. 28 U.S.C. § 636(b)(1). However, absent prompt objection by a dissatisfied party, it appears that Congress did not intend for the district court to review the factual and legal conclusions of the magistrate judge. *Thomas v. Arn*, 474 U.S. 140 (1985). Additionally, any party who fails to file timely, written objections to the magistrate judge's report pursuant to 28 U.S.C. § 636(b)(1) waives the right to raise those objections at the appellate court

level. *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984). No objections have been filed to the magistrate judge's report and recommendation.¹

A *de novo* review of the record indicates that the magistrate judge's report accurately summarizes this case and the applicable law. Accordingly, the magistrate judge's report and recommendation [Doc. 76] is **ADOPTED**. Plaintiff's claims against defendants Doctor Woods, Doctor Brishman, and Lt. Siole are **DISMISSED WITHOUT PREJUDICE**. The Clerk is **DIRECTED TO STRIKE** defendants Doctor Woods, Doctor Brishman, and Lt. Siole from the above-styled case. The claims against defendant Kitchen will proceed.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record herein.

DATED: July 8, 2024.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE

¹ Plaintiff filed a Letter [Doc. 81] on July 2, 2024. Therein, plaintiff mentions defendant Kitchen and provides his recitation of facts surrounding injuries he sustained when he was put "in a cell to get beaten up by inmate." See [Doc. 81 at 1]. The Letter does not mention defendants Woods, Brishman and Siole, and does not provide any objection to the pending Report and Recommendation with respect to defendants Woods, Brishman and Siole.